

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Waiver filed by)	
)	
North American Family Institute)	File No. SLD-330398
Danvers, Massachusetts)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: January 22, 2004

Released: January 23, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. North American Family Institute (NAFI), Danvers, Massachusetts, seeks review of a December 30, 2002 decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ On March 3, 2003, NAFI appealed the decisions to SLD, but SLD denied the appeal because NAFI filed the appeal more than 60 days after the decision was rendered.² We affirm SLD's decision. For a review of decisions by SLD, appeals to SLD must be filed within 60 days of the issuance of the SLD decision date.³ Here, NAFI filed its appeal to SLD after the 60-day period, in contravention of our rules. We therefore deny the Request.

2. NAFI asks us to waive our rules in this instance; we also deny its request.⁴ NAFI states that it sent the appeal by U.S. Postal Service on February 25, 2003 and the appeal was unusually and unexpectedly delayed by the Postal Service until March 3, 2003.⁵ NAFI further states that it sent a second appeal on the same day and that appeal was received by SLD timely

¹ Letter from Daniel Nakamoto, North American Family Institute, to Federal Communications Commission, filed April 21, 2003 (Request for Waiver). *See also* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Louisa Loke, North American Family Institute, dated December 30, 2002 (Funding Commitment Decision Letter). Any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² *See* Letter from Daniel Nakamoto, North American Family Institute, to Schools and Libraries Division, Universal Service Administrative Company, filed March 3, 2003; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Daniel Nakamoto, North American Family Institute, dated March 5, 2003.

³ 47 C.F.R. § 54.720(b). *See In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9221 (2003).

⁴ 47 C.F.R. § 54.720(b).

⁵ Request for Waiver at 3.

on February 27, 2003. NAFI asserts that it acted in a prudent and reasonable fashion that was well within the E-Rate program rules. NAFI asserts that the appeal was posted in a reasonable time-frame and that the delivery delays were beyond the control of NAFI.⁶ Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.⁷ Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.⁸ As we have consistently held in the past, applicants are responsible for submitting their appeals in a timely manner and complying with program rules and procedures.⁹ In this instance, NAFI failed to comply with the deadline.¹⁰ This failure based on NAFI misunderstanding of the timing deadline does not constitute special circumstance to justify a waiver of our rules.

3. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Request for Waiver filed on April 21, 2003, by North American Family Institute, Danvers, Massachusetts, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda M. Jones
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

⁶ *Id.*

⁷ 47 C.F.R. § 1.3; *see Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁸ *See Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612-25613 (Com. Car. Bur. 2000).

⁹ *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, 12938 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested due to misunderstanding of the program's rules).

¹⁰ 47 C.F.R. § 54.720(b). *See In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9221 (2003).